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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/863,897      | 05/23/2001  | Anna Karri           | 944-003.088         | 9365             |

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WARE FRESSOLA VAN DER SLUYS &  
ADOLPHSON, LLP  
BRADFORD GREEN BUILDING 5  
755 MAIN STREET, P O BOX 224  
MONROE, CT 06468

EXAMINER

CUMMING, WILLIAM D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2683

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/863,897

Applicant(s)

KARRI, ET AL

Examiner

WILLIAM D. CUMMING

Art Unit

2683

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

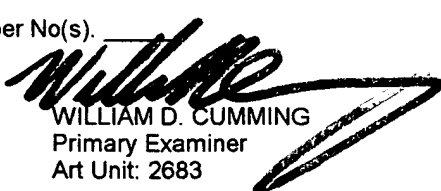
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).  
13. ☐ Other: \_\_\_\_\_.

  
WILLIAM D. CUMMING  
Primary Examiner  
Art Unit: 2683

Continuation of 11. does NOT place the application in condition for allowance because: Regarding applicants' attorney's argues that Kim does not disclose a sending terminal assembling a plurality of messages in a desired order according to inputs by a user. Applicants' attorney must have missed figures 1 and 2 and did not read Kim at all, and it seems that attorney and the examiner are not reading the same reference! The examiner feels like going in circles in his explanation of the references and is highly frustrated of repeating himself. This is what the examiner sees in Kim and is reprinted for the attorney can also see, "FIG. 1 is a simplified block diagram of a long message transmitting apparatus that can transmit a short message using the SMS feature of a digital portable terminal according to the preferred embodiment of the present invention.

"With reference to FIG. 1, a controller 100 provides overall control of the whole operation of a digital portable terminal. Especially, the controller 100 controls the SMS function according to the embodiment of the present invention. The controller 100 is implemented using a single chip microprocessor, and it controls the segmentation of a long message and the generation of SMS headers. The message storage 110 is a memory device for storing the long text message inputted by the user. The controller 100 reads the stored message stored in the message storage 110 for the transmission of the long message inputted by the user. A message transmitter 140 serves to transmit the segmented messages generated by the controller 100 and performs the radio signal transmission/reception operation between a digital portable terminal and a base station. Namely, the message transmitter 140 converts a RF signal to an IF signal, the IF signal to a baseband signal, and the baseband signal to a digital signal during the voice signal operation after a call establishment. A message divider 120 divides the retrieved read message into a plurality of shorter messages if the message inputted by a user is longer than a predetermined short message under the SMS standard. Thus, the length of each message divided by the message divider 120 fits within the SMS standard frame size. The SMS header generator 130 generates an SMS header for each divided message under the control of the controller 100. Here, the SMS header includes a typical short message transmission information, a message identification (ID) indicating that the segmented message is a portion of the original long message, and a sequence number indicating the order of the segmented messages. The message ID information and the message segment sequence number are used to recover the original long message at the receiver end.

"FIG. 2 is a flowchart illustrating a method for transmitting the long message of a digital portable terminal according to the preferred embodiment of the present invention.

Referring to FIG. 2, the controller 100 determines whether a user has requested an entry for an SMS message transmission mode in step 210. If the SMS message transmission mode is activated, the controller 100 reads a message inputted by the user from the message storage 110, in step 212. Then, the controller 100 checks whether the length of the retrieved message is longer than a maximum length permitted by the SMS message standard, in step 214, in order to determine whether the retrieved message should be transmitted through a regular short message transmission mode or a long message transmission mode. If the retrieved message is longer than the SMS standard length, the controller 100 divides the message into a plurality of short messages complying with the SMS standard length, in step 216. In step 218, the controller 100 controls the header generator 130 to generate an SMS header for each segmented short message. Here, the header includes a separate long message ID indicating that the transmitted message is a part of a given long message and a sequence number information indicating the sequence order of the segmented messages. The controller 100 generates the segmented short messages by attaching the headers to the respective segmented messages in step 220. Then, the short messages with the header are transmitted through the message transmitter 140 in step 222. At the receiving end, the receiver recovers the transmitted short messages back to the original long message by analyzing the header information."

In response to applicants' arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicants' argument that the references fail to show certain features of applicants' invention, it is noted that the features upon which applicants relies (i.e., taking the step in order as claimed, step 2 takes place only after step one, etc.) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The specification is not the measure of the invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art (*In re Sporck*, 155 USPQ 687). Attempt to invoke limitations present in the preferred embodiment but absent from the claims themselves violates the established claim construction principles. A book about patent claim drafting or applicants' attorney's remarks do not over rule the Board of Appeals or the Federal Courts.

Applicants' attorney is trying to invalidate what he stated in the Office action of July 2, 2004. Applicants' attorney in his remarks of July 2, 2004 has placed estoppels on the claimed subject matter. The examiner now cannot just ignore applicants' attorney's willful and submitted remarks.

Claims 1, 11 and 24 are NOT allowable. For all the forgoing reasons, repeated many times in many Office actions, that all of the claims now in the application are NOT in condition for allowance.